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No. 71-1213

In the Supreme Court of the United States

OCTOBER TERM, 1971

CARMINE G. DE SAPIO, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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After a jury trial in the United States District Court for the Southern District of New York, petitioner was convicted of having conspired to obstruct commerce through extortion and to travel interstate and use interstate facilities to commit bribery (18 U.S.C. 371) and of two substantive violations of 18 U.S.C. 1952 with respect to bribery. He was sentenced to concurrent prison terms of two years and fined $4500. The conviction was affirmed on appeal. 435 F.2d 272, certiorari denied, 402 U.S. 999.

The present case involves petitioner's second motion for a new trial based on alleged newly discovered evidence concerning the government's principal witness, Itkin. The district court denied relief (Pet. App. C 48-56) and the court of appeals affirmed (Pet. App. B 33-47). These opinions, on which we rely, fully answer petitioner's various contentions which present no issue of general importance.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

APRIL 1972.

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